

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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JAKE M. REINHARDT, et al.,

Plaintiffs,

v.

**ANSWER TO SECOND
AMENDED COMPLAINT**

Case No. 21-cv-206-GWC

THE CITY OF BUFFALO, et al.,

Defendants.

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Defendants, City of Buffalo, and Buffalo Police Officers Clayton Reed, Melissa Kurdziel, Jae S. Murphy, Spencer T. George, Roberto J. Torres, Colin Keenan and Devon Salter-Brown, in their Individual and Official Capacities, by their undersigned attorney, for their answer to plaintiffs' second amended complaint [111], upon information and belief allege:

1. Lack knowledge or information sufficient to admit or deny the allegations in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 151, 155, 156, 159, 160, 161, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, 173, 174, 175, 177, 178, 179, 180, 181, 182, 183, 184, 185, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 199, 200, 201, 202, 203, 204, 205, 206, 209, 210, 211, 212, 213, 214, 215, 216, 218, 219, 220, 221, 222, 223, 224, 226,

227, 228, 229, 230, 232, 238, 240, 242, 243, 245, 246, 247, 248, 249, 250, 251, 253, 254, 255, 256, 257, 258, 259, 260, 261, 263, 264, 265, 266, 267, 269, 270, 271, 272, 273, 274, 276, 277, 278, 279, 280, 281, 282, 284, 285, 286, 287, 288, 289, 291, 292, 293, 294, 295, 296, 297, 298, 300, 301, 302, 303, 304, 305, 306, 307 and 308.

2. Admit the allegations in paragraphs 10 and 309.

3. Answering paragraph 11, admit that the City of Buffalo has operated and continues to operate a municipal police department, and lack knowledge or information sufficient to admit or deny the rest of the allegations.

4. Deny the allegations in paragraphs 51, 150, 152, 153, 154, 157, 158, 168, 176, 233, 234, 235, 236, 237, 239 and 241.

5. Repeat and reallege the answers to the allegations in paragraphs 186, 198, 208, 217, 225, 231, 244, 252, 262, 268, 275, 283, 290 and 299.

6. There are no allegations to answer in paragraph 207.

7. Deny each and every allegation not specifically answered herein.

FIRST DEFENSE

8. Plaintiffs' damages must be reduced in proportion to their own culpable conduct, pursuant to CPLR 1411, if applicable.

SECOND DEFENSE

9. The answering defendants will claim an offset pursuant to General Obligations Law §15-108, if applicable.

THIRD DEFENSE

10. The answering defendants' liability is limited under Article 16 of the CPLR, if applicable.

FOURTH DEFENSE

11. Plaintiffs may have failed to join all necessary parties to this action.

FIFTH DEFENSE

12. In the event that plaintiffs do recover against the answering defendants, the answering defendants will request that an apportionment of fault be made as to all parties and non-parties legally responsible for plaintiffs' alleged damages, and will further request a judgment or declaration of indemnification or contribution against all those parties or non-parties in accordance with the apportionment of fault.

SIXTH DEFENSE

13. The individually named Buffalo police officers may be protected from liability by the doctrine of qualified immunity.

SEVENTH DEFENSE

14. The City of Buffalo may be protected from liability by the doctrine of governmental function immunity.

EIGHTH DEFENSE

15. The second amended complaint may be barred against the answering defendants by the existence of probable cause, or arguable probable cause.

NINTH DEFENSE

16. The second amended complaint may fail to state a claim against the answering defendants upon which relief can be granted.

TENTH DEFENSE

17. Any use of force against plaintiffs may have been justified under the circumstances.

ELEVENTH DEFENSE

18. Plaintiffs cannot recover damages for losses that could have been avoided or mitigated.

TWELFTH DEFENSE

19. Plaintiffs' damages must be reduced by the amount they have received, or will with reasonable certainty receive from collateral sources, pursuant to CPLR 4545, if applicable.

CROSSCLAIM

20. If plaintiffs were caused to sustain any loss or damage as alleged in the second amended complaint, then any such loss or damage was caused solely by reason of, or caused in substantial part by, the wrongdoing of co-defendants Bail Shop, LLC, Adel Mikheail, Buffalo Bail Bonds Agency, Inc., Dennis White and Wayne Bryant, jointly or separately.

21. Therefore, if plaintiffs recover judgment against the answering defendants for the loss or damage alleged in the second amended complaint, the answering defendants are entitled to complete indemnity from said co-defendants, jointly or separately, in an amount equal to the total amount of any such judgment or, alternatively, contribution from said co-defendants, jointly or separately, according to their relative culpability.

JURY DEMAND

22. The answering defendants demand a jury trial of all issues so triable.

PRAYER FOR RELIEF

The answering defendants request judgment dismissing the second amended complaint as against them or, alternatively, on the crossclaim set forth herein, together with the costs of this action, including reasonable attorneys' fees, and any additional relief the court deems appropriate.

Dated: Buffalo, New York
May 3, 2023

Cavette A. Chambers
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City of Buffalo, and Buffalo Police Officers
Clayton Reed, Melissa Kurdziel, Jae S.
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